

White Paper

Committee: House Study Committee on Reforming Real Property Taxation

Agenda: Property Appraisal Process

Contributor: Georgia Association of Assessing Officials (GAAO)

Primarily relevant O.C.G.A. references:

48-5-1. Legislative intent. The intent and purpose of the tax laws of this state are to have all property and subjects of taxation returned at the value which would be realized from the cash sale, but not the forced sale, of the property and subjects as such property and subjects are usually sold except as otherwise provided in this chapter.

48-5-2(3). “Fair Market Value of property” means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm’s length, bona fide sale.

48-5-10. Returnable property. All property shall be returned by the taxpayers for taxation to the tax commissioner or tax receiver as provided by law. Each return by a taxpayer shall be for property held and subject to taxation on January 1 next preceding each return.

The tax assessment process in Georgia begins with the boards of tax assessors (O.C.G.A 48-5-290) appointed by the county boards of commissioners (BOC) to staggered terms. The length of their term is determined locally. The Department of Revenue (DOR) establishes education rules and regulations that a board member must complete before they are considered a certified tax assessor. The board of tax assessors then hires a Chief Appraiser who, depending upon the size and needs of the county, hires necessary staff to perform the tasks that it takes to create the tax digest. All employees of the tax assessors are county employees and the BOC is responsible for funding the operation, but there are deliberate separations put in place to keep as much political influence as possible out of the assessor’s office. On the other hand, assessors are local citizens. Seemingly, by design, this helps to establish the notion of local control. Tax appraisers must meet certain requirements (21 years old, high school diploma) including requirements outlined in law and by the DOR for the education of the appraisal staff. There are four certification levels for appraisers in the State of Georgia administered by the DOR with requisite courses and time-served requirements for each certification level.

An appraisal is defined as an opinion of value. Assessment in Georgia is defined as 40% of the appraised value for property tax purposes. The real property appraisal process in Georgia begins, typically, with establishing a market value for the land portion of the properties in a given jurisdiction as of January 1 based on the most recent sales data available in a uniform manner. Structure values are established using current costs of construction and materials, adjusting for depreciation and then adjusting for the market based on the most recent sales data available in a uniform manner. Once initial valuations have been established on the properties within a jurisdiction, uniform market adjustments can be made using

mass appraisal techniques based on recent sales data annually. All counties in Georgia use some type of computer assisted mass appraisal (CAMA) system to help accomplish this task. The most common CAMA system used in the state was developed in cooperation with the DOR called WinGAP (Windows Georgia Assessment Program).

There are three approaches to appraisal estimation: Cost Approach, Market Approach (both briefly previously described), and Income Approach. The income approach can be used on income producing properties (strip malls, apartments, etc.) by capitalizing the rent and expense information using a standard formula to arrive at an estimate of value. All three approaches to value are recognized as standards in both the government and private sectors.

Taxpayers are required to return (make a declaration of) their property at fair market value every year between January 1 and April 1. If they do not physically submit a return, the assessors are to utilize the value from the previous year and accept that value as the returned value for the current year. April 1 is also the deadline for all exemption applications, except Disabled Veterans. During the return period, most assessor offices are engaged in the task of establishing values for the current tax year. This process typically involves field visiting all properties that had sold in a "qualified manner" during the previous year and using any other means of review available to the staff (mailed questionnaires, FMLS, Zillow, etc.). Once the appraiser is assured that the sales data has been "scrubbed", they begin the process of determining, neighborhood by neighborhood, what market adjustments are required to match the assessment values to the sales values as closely as possible. Once they determine what the required adjustment is, they apply the adjustment to the entire neighborhood of properties. As most properties have subtle, or even major, differences one from another, the CAMA systems are designed to take the mass adjustments being made by the appraiser, apply them uniformly to all properties within a neighborhood, while continuing to account for those differences from one property to another.

There are three mathematical measurements that tax assessors, the DOR, and the Department of Audits (DOAA) use to determine whether or not assessments are properly adjusted. The first of these measurements is the median sales ratio. The median is a measure of central tendency of the level of 40% assessed value to 100% sales value. The target is 40% with a range of 36% - 44% deemed acceptable. The second measure is the Coefficient of Dispersion (COD). The COD measures uniformity within a set of sales ratios by indicating the degree to which ratios are clustered about the median. The COD measurement is required to be below 15% for residential properties, 20% on all other property classifications. The final measurement is the Price Related Differential (PRD). The PRD measures bias within a set of sales ratios, or the degree to which a set of valuations is biased toward higher, or lower, value properties. The target is a 1.00. Any PRD above 1.00 indicates a favorable bias toward higher value properties, while a PRD below 1.00 indicates a favorable bias toward lower value properties. Each year the DOAA conducts a complete sales ratio study for each of the counties of the State and measures for these three criteria to determine if the tax assessors are performing their duties properly. The sales ratio study is then handed over to the DOR to determine if there are any deficiencies and, if so, mete out whatever corrective action may be required.

Once values have been finalized by the tax assessors, Notices of Assessment are sent to the taxpayers indicating the valuation that has been placed on their property by the tax assessors for the given year. This is when the appeal process begins, which will be studied as a separate issue later by this committee. By July 15 each year, the tax digest is handed over to the Tax Commissioner by the Tax Assessors where

a balancing between the two offices occurs. This process takes place over several weeks, but ends when an appointment is made with the DOR agent for the respective region and all parties sit down together for the “digest submission” process. The Tax Commissioner must turn over the digest to the DOR by September 1. The DOR agent looks over all materials required for the tax assessors, Tax Commissioners, and taxing jurisdictions to submit during this process. If all is well, a collection order is granted by DOR so the Tax Commissioner can proceed with billing the taxpayers. If there are any deficiencies discovered during the digest submission process, depending on the nature of the infraction, the DOR can withhold the collection order, potentially forcing the taxing jurisdictions to go to their local Superior Court to seek a collection order.

GAAO concerns

There is a concept that affects the uniformity of assessment in Georgia that we term “legislated values”. Legislated values are artificial valuations created through legislative initiatives in attempts to favor one taxpayer over another, or one group of taxpayers over others. The two examples we have in Georgia have not been challenged on their constitutionality, but we believe they would not pass constitutional muster due to the creation of non-uniform assessments.

The first example is found in O.C.G.A. 48-5-299(c). The effect of this code section is to freeze a valuation at whatever value has been determined as the result of a BOE, Hearing Officer, Arbitration or Superior Court hearing for a period of three years (the current year plus the two following). The purpose of this action seems to be to reward a taxpayer that has gone through the process of taking an appeal to the next level beyond the Board of Tax Assessors. The result is non-uniformity between neighbors for the remaining two years of the freeze. And there is an unintended consequence. Certain savvy Tax Representatives, attorneys and taxpayers have learned to “game” this system and, rather than negotiate a settlement with the tax assessors, carry the appeal forward to one of the next level agencies in order to receive the three year lock. Further, if one of these enterprising individuals plays this game well, a freeze can be in effect indefinitely depending on when they choose to re-appeal the property value. For instance, if a property value is frozen in 2012 and held for 2013 and 2014, and if the property owner then appeals again in 2014 and carries the appeal to the BOE, there is the likelihood that the BOE rules no change in the value, but then the value would be held for 2014, 2015 and 2016, etc.

The second example is found in O.C.G.A. 48-5-2(3). This bit of code is located in the same paragraph as the definition of “Fair Market Value”, just a little further along and has the effect of freezing a valuation at no more than the purchase price from the preceding year. The prevailing thought at the time this language was enacted was that there should be no time that an assessed value should exceed a recent purchase price. But is that true? In an escalating market, what if the sale occurred in January of the preceding year and the value is set for assessment purposes at Jan. 1 the next year (12 month lapse between dates)? There is no ability to react to the market as it is later in the year? Or, what if the sale is determined to be a quick/short sale? Does that mean if the property were put back on the market it would sell for the same amount, or less? Doubtful. The consequence of this bit of code has had a far-reaching effect, not only to the tax assessment offices, necessarily, but to the way DOAA conducts its sales ratio studies. It has caused them to perform, what is termed, “look-forward” studies. They are looking at the sales that occur *after* January 1 when analyzing the job tax assessors are doing, rather than “looking back” at the same data the tax assessors used to establish the tax digest for a given year.

The “look back” data is considered contaminated once the freezes are put in place. Performing sales ratio studies in this manner has caused median ratios to drop across the State and the uniformity measure (COD) to be out of compliance more often than otherwise should be the case, potentially putting tax assessors on the hook for a deficient tax digest. This method of analysis performed the way it is by DOAA has even led to issues with the local school systems funding through the QBE formula.

Due to the resulting non-uniformity of legislated values, and due to the negative side effects these types of values have on taxpayers, tax assessor business, and other agencies tasked with oversight of the property tax system in Georgia, GAAO would like this committee to consider the elimination of these legislated values as a goal of the committee.